

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SHANE LAFFERTY, a single person,)
Plaintiff,) CASE NO. C17-0749RSM
v.)
CHRISTOPHER LIU, et al.,) ORDER GRANTING UNITED STATES'
Defendants.) MOTION TO DISMISS FOR LACK OF
) SUBJECT MATTER JURISDICTION
)
)

This matter comes before the Court on Defendant United States of America's Motion to Dismiss for Lack of Subject Matter Jurisdiction. Dkt. #35. Plaintiff Shane Lafferty failed to file any response brief. Except for motions for summary judgment, if a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit. LCR 7(b)(2).

On March 28, 2018, the United States filed a Notice of Substitution to substitute the United States of America for David Heenan for the purposes of all common law tort claims against him. Dkt. #28. It has been determined by Defendant United States that Mr. Heenan was acting within the course and scope of his employment as a Swinomish Indian Tribal Community Police Officer and pursuant to a grant under the Indian Self-Determination and Education Assistance Act (“ISDEAA”) at the time of the claims in this litigation. *See* Dkt. No. 28-1. The

1 Court sees nothing in the record to disagree with that conclusion. Plaintiff did not file an
2 administrative claim with the United States Department of the Interior or Bureau of Indian Affairs
3 prior to filing a lawsuit in state court. *See* Dkt. #36. The Court finds that Defendant's requested
4 relief is proper given the record and the requirements of the Federal Tort Claims Act ("FTCA").
5 *See* 28 U.S.C. § 2675(a); *McNeil v. United States*, 508 U.S. 106, 113 (1993); *Brady v. United*
6 *States*, 211 F.3d 499, 502 (9th Cir. 2000).

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8 Accordingly, having considered the relevant briefing, supporting declarations, and the
9 remainder of the record, the Court hereby finds and ORDERS:

10 Defendant United States of America's Motion to Dismiss for Lack of Subject Matter
11 Jurisdiction (Dkt. #35) is GRANTED. Plaintiff's Complaint is dismissed as to the
12 United States, relating to any and all common law tort claims asserted against David
13 Heenan.

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16 DATED this 18 day of June, 2018.

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21 RICARDO S. MARTINEZ
22 CHIEF UNITED STATES DISTRICT JUDGE
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